

REMARKS

In an Office Action mailed February 15, 2007, claims 1, 2, 5-8, 10-15, 17-19, 21, 25, 27, 28, 29, and 32 were rejected under 35 U.S.C. § 101. Claims 1-8, 10, 11-19, 20, 25, 27, 28, 29, and 32 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,877,010 (“Smith-Semedo”). Additionally, claims 21-24 were rejected under 35 U.S.C. § 103 as being unpatentable over Smith-Semedo in view of U.S. Patent No. 5,822,537 (“Katseff”). Applicant respectfully traverses and requests reconsideration.

As an initial matter, Applicants note that claim 28 has been canceled above. Thus, no further discussion of claim 28 will be presented. Additionally, claims 1, 13-15, 25 and 29 have been amended above to more accurately state that which Applicant regards as his invention.

Claims 1, 2, 5-8, 10-15, 17-19, 21, 25, 27-29, and 32 were rejected under 35 U.S.C. § 101 for allegedly failing to recite “at least one practical utility.” To this end, it is argued that “the claimed subject matter relates only to receiving index information separate from the media file from an external source”, but that it was unclear “how this result is utilized.” Because no separate treatment of the respective claims thus rejected was provided, Applicant assumes the stated rationale is to be applied to all of the rejected claims.

Applicant first notes that M.P.E.P. § 2106 sets forth the proper process for asserting a rejection under Section 101, which Applicant summarizes in relevant part below:

1. Determine whether the claimed invention falls within an enumerated statutory category. (M.P.E.P. § 2106.B)
- 2a. Determine whether the claimed invention covers either a 35 U.S.C. § 101 judicial exception (i.e., laws of nature, natural phenomena or abstract ideas). (M.P.E.P. § 2106.C.1)
- 2b. If the claim includes subject matter under one of the judicial exceptions, determine whether the claim recites a practical application of such excluded subject matter by reciting a useful, concrete and tangible result. (M.P.E.P. § 2106.C.2)

Regarding step 1 above, Applicant notes that the Office Action has failed to address this step and Applicant therefore assumes that no argument in this regard is made concerning any of the claims. Indeed, Applicant respectfully submits that no credible assertion can be made that any of the claims do not fall within one of the statutorily-defined categories.

Regarding step 2a above, the Office Action makes no more than an inferential assertion that the claims cover judicially-excepted subject matter to the extent that the Office Action fails to state what portion, if any, of the claimed subject matter constitutes judicially-excepted subject matter. For this reason alone, Applicant respectfully submits that the rejection under Section 101 is improper and should be withdrawn.

Assuming for argument's sake that judicially-excepted subject matter is recited in the claims, the Office Action has collapsed the inquiry to whether the claims recite a "practical utility" or "useful results", i.e., a portion of step 2b above. To the extent that no objection to the claims for failure to recite either a "concrete" or "tangible" result has been made, Applicant assumes that the claims meet these criteria (again, assuming for argument's sake, that the claims even include judicially-excepted subject matter). With regard to a useful result, the Office Action particularly notes that the claimed subject matter "relates only to receiving index information separate from the media file from an external source." However, Applicant notes that claim 1 (being representative of the rejected claims for purposes of the Section 101 rejection as stated) specifically recites "associating . . . the index information with the media file." Thus, contrary to the assertion otherwise, the claims recite more than receiving index information separate from the media file from an external source, but also recite subsequently *associating the index information with the media file, i.e., indexing the media file*. As noted in the Office Action, such indexing of a media file constitutes a "practical utility." As such, Applicant

submits that the presently claimed subject matter meets the necessary requirements of Section 101.

Claims 1-8, 10, 11-19, 20, 25, 27, 28, 29, and 32 stand rejected under 35 U.S.C. § 102 as being anticipated by Smith-Semedo. Smith-Semedo is directed to a customizable logging and content management system for indexing multimedia to better enable loggers to perform their jobs. (Loggers, as defined by Smith-Semedo, are people that view an event as it is being recorded (or after it has been recorded) to index certain pre-defined events that occur during the event that may be of interest to the person or organization for which the logger is working). (Abstract; col. 1, line 66 – col. 2, line 4.) Thus, the system assists in managing audio, video, and/or multimedia information and assets, which includes capturing, indexing, cataloging, rearranging, safeguarding, and redistributing multimedia assets. (Col. 1, lines 14-19.) More specifically, Smith-Semedo enables loggers to easily and efficiently view a live or prerecorded event and document a time-based stamp for predefined events that may occur during the overall event. (Col. 2, lines 52-55.) A logger uses a graphical user interface (GUI) that is customized to the particular application (and optionally for each particular logger using the system) to log events. (Col. 2, lines 55-59.) The logged events are then stored in a database for later search and retrieval as desired. (Col. 3, lines 3-4.) Smith-Semedo also describes that the system may use audio/video analysis techniques for speech, sound, object, and text recognition to index video content and create an electronic directory of the content, thereby not requiring manual loggers. (Col. 3, lines 28-36.) In any event, Applicant notes that in all cases, the index information utilized by Smith-Semedo (i.e., time stamps; see FIG. 1) is *not* provided to the media capture device, but is instead provided to a “logging object” (FIG. 1). As best illustrated in FIGs. 4 and

5, Smith-Semedo's "logging object" is totally separate from and otherwise unrelated to any "media capture device", i.e., Smith-Semedo's "Capture Bridge" (col. 8, lines 45-50).

In contrast, each of independent claims 1, 8, 13, 19, 25, 27 and 29 recite the limitation that the media capture device (i.e., that captures a subject in a media file) receives or is provided the index information. Thus, to the extent that Smith-Semedo only teaches that his "logging object" receives index information, *as opposed to the actual media capture device*, Applicant respectfully submits that Smith-Semedo fails to anticipate each and every limitation of those claims rejected under Section 102, and also fails to establish prima facie obviousness of those claims rejected under Section 103. Furthermore, and with respect to claims 1, 13, 19, 25 and 27, the claims further recite that the media capture device associates the index information with the media file. Obviously, to the extent that Smith-Semedo fails to teach index information being provided to his media capture device, it logically follows that his media capture device is likewise incapable of associating index information with a media file. For these reasons, the independent claims are seen to include limitations not taught by Smith-Semedo (or the combination of Smith-Semedo and Katseff), which claims are therefore in suitable condition for allowance. Additionally, to the extent that the various dependent claims incorporate the limitations of claims 1, 8, 13, 19, 27 and 29 and respectively recite additional patentable subject matter, Applicants submit that the various dependent claims are also in suitable condition for allowance.

Further arguments concerning allowability of the various claims are presented below.

As to claim 1 and 27, for example, the Office Action suggests, among other things, that Smith-Semedo discloses "automatically receiving index information separate from the media file from an external source related to the subject (col. 3, lines 27-35; col. 6, lines 27-30, Smith-

Semedo).” Applicant respectfully disagrees. The portion cited in column 3 only describes that the system of Smith-Semedo may contain an automatic logging capability that uses video analysis technology to recognize speech, sound, objects, and text in the video content itself and thus index the video content. While Smith-Semedo teaches automatically (meaning a manual logger is not required) analyzing video content, Smith-Semedo does not teach automatically receiving index information separate from the media file from an external source related to the subject to the extent that the content itself must be analyzed. In fact, paragraph [0006] of Applicant’s background of the present application discloses that it is known to index media files by employing machine vision techniques to recognize certain elements within a photograph or video. As noted, these techniques have disadvantages. For example, even if a machine vision approach could recognize that a photograph depicts a baseball game, it would not be possible to recognize that it was a specific game, such as a critical play-off game.

The Office Action also cites column 6, lines 27-30 as reciting the claimed limitation of automatically receiving index information separate from the media file from an external source related to the subject. This cited portion states: “The trigger to start the capture (and therefore the timer object) can be manual, requiring logger action, or could be automatically generated from an external trigger or signal.” Clearly, this passage does not teach receiving index information separate from the media file from an external source related to the subject. Indeed, the cited portion is completely silent on the topic of index information.

As to claim 8, the Office Action alleges that column 6, lines 27-30 teach “receiving an index information request that is generated by a media capture device.” As discussed above, however, this is not what column 6, lines 27-30 describe. Instead, this passage teaches, as best understood, that the trigger to start the capture (received by Smith-Semedo’s media capture

device) can be manual or could be automatically generated from an external trigger or signal. In contrast, the receiving of claim 8 is “in a media indexing beacon external to a media capture device” and the “index information request . . . is generated by the media capture device.” (emphasis added) For these reasons, among others, claim 8 is in condition for allowance. The dependent claims add novel and nonobvious subject matter and are also therefore in condition for allowance.

As to claim 19, the Office Action alleges that an external trigger or signal is the claimed media indexing beacon and that the external trigger or signal contains index information relating to a subject. Applicant respectfully disagrees. As the cited portion describes and as this Response has already addressed, “[t]he trigger to start the capture (and therefore the timer object) can be manual, requiring logger action, or could be automatically generated from an external trigger or signal.” (Col. 6, lines 27-30; emphasis added.) This electronic trigger or signal only causes a capture to begin; it does not contain any index information relating to a subject. For this reason alone, claim 19 is in condition for allowance. The dependent claims add novel and nonobvious subject matter and are therefore also in condition for allowance.

As to claim 25 and 29, the Office Action references the rejections of claims 1 and 8. As such, Applicant respectfully reasserts the relevant remarks made above. As to claim 25, for example, Smith-Semedo fails to teach “means for transmitting a beacon signal wherein the beacon signal comprises index information relating to the subject.” As to claim 29, for example, Smith-Semedo fails to teach or describe, among other things, “wherein the media file is captured by a media capture device and the index information is transmitted separately by a media indexing beacon external to the media capture device.”


Claims 21-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith-Semedo in view of Katseff. Applicant notes that claims 21-24 are dependent upon independent claim 19. Smith-Semedo fails to teach each and every limitation of independent claim 19, as discussed above, and this failure is not remedied by the additional teachings of Katseff. As further explained in the Response to the previous Office Action (mailed September 21, 2006), to the extent that Katseff teaches anything about "index information," the index information is not received by a media capture device, as presently claimed, but is instead provided to downstream to server 40. Thus, Katseff, does not teach what is alleged. As such, claims 21-24 are in condition for allowance.

In light of the foregoing comments, Applicant respectfully submits that the instant application is in condition for allowance and requests that a timely Notice of Allowance be issued in due course.

Respectfully submitted,

Vedder, Price, Kaufman &
Kammholz, P.C.

Dated: May 15, 2007

By: 
Christopher P. Moreno
Reg. No. 38,566

222 North LaSalle Street, Suite 2600
Chicago, Illinois 60601
(312) 609-7842 (Direct)
(312) 609-5005 (Facsimile)